

AMENDED IN ASSEMBLY MAY 5, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1344

Introduced by Assembly Member Fletcher

February 27, 2009

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1344, as amended, Fletcher. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. Existing law specifies that one of these criteria is a requirement that any reduction, as specified, in property taxes on leased property used for military housing, as defined, inures solely to the benefit of the residents of the military housing through improvements.

This bill would clarify that, for the purpose of the definition of a taxable possessory interest, any reduction, as specified, in property taxes *and any interest earned on the unexpended property tax savings*

on leased property used for military housing, as defined, would inure solely to the benefit of the current or future residents of the military housing through current or future improvements, including project serving facilities, as specified, and housing improvements, as specified, provided by the contractor with the approval of the military. This bill would specify that these property tax savings may be used to fund the construction of improvements or to service debt incurred to fund the construction of improvements. *This bill would require the private contractor to expend the reasonable estimate of property tax savings for an assessment year through the construction of improvements or to service debt incurred to fund the construction of improvements within the period of time the county assessor may make an escape assessment, as specified. This bill would require the period of time to expend the property tax savings, and the period of time to make an escape assessment, to be extended if certain conditions occur, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 107.4. For purposes of paragraph (1) of subdivision (a) of
- 4 Section 107, there is no independent possession or use of land or
- 5 improvements if that possession or use is pursuant to a contract
- 6 that includes, but is not limited to, a long-term lease, for the private
- 7 construction, renovation, rehabilitation, replacement, management,
- 8 or maintenance of housing for active duty military personnel and
- 9 their dependents, if all of the following criteria are met:
- 10 (a) The military-family housing constructed and managed by
- 11 private contractor is situated on a military facility under military
- 12 control, and the construction of that housing is performed under
- 13 military guidelines in the same manner as construction that is
- 14 performed by the military.
- 15 (b) All services normally provided by a municipality are required
- 16 to be purchased from the military facility or a provider designated
- 17 by the military.
- 18 (c) The private contractor is not given the right and ability to
- 19 exercise any significant authority and control over the management

1 or operation of the military-family housing, separate and apart
2 from the rules and regulations of the military.

3 (d) The number of units, the number of bedrooms per unit, and
4 the unit mix are set by the military, and shall not be changed by
5 the contractor without prior approval by the military.

6 (e) Tenants are designated by a military housing agency.

7 (f) Financing for the project is subject to the approval of the
8 military in its sole discretion.

9 (g) Rents charged to military personnel or their dependents are
10 set by the military.

11 (h) The military controls the distribution of revenues from the
12 project to the private contractor *by contract or other means,*
13 *including control of reserve account distributions or withdrawals,*
14 and the private contractor is allowed only a predetermined profit
15 or fee for constructing the military-family housing.

16 (i) Evictions from the housing units are subject to the military
17 justice system.

18 (j) The military prescribes rules and regulations governing the
19 use and occupancy of the property.

20 (k) The military has the authority to remove or bar persons from
21 the property.

22 (l) The military may impose access restrictions on the contractor
23 and its tenants.

24 (m) (1) Any reduction or, if that amount is unknown, the private
25 contractor's reasonable estimate of savings, in property taxes on
26 leased property used for military housing under the Military
27 Housing Privatization Initiative (10 U.S.C. Sec. 2871 et seq.) *and*
28 *any interest earned on the unexpended property tax savings,* shall
29 inure solely to the benefit of the current or future residents of the
30 military housing through any of the following current or future
31 improvements provided by the private contractor ~~with the approval~~
32 *under the terms of a contract between the private contractor and*
33 *the military or with the prior written approval or direction of the*
34 military:

35 (A) Project serving facilities, including, but not limited to, day
36 care centers, recreation or community centers, fitness centers, parks
37 or playgrounds, parking, and outdoor lighting, and any furnishings,
38 fixtures, and equipment for those facilities.

1 (B) Housing improvements, including, but not limited to, the
2 construction of additional housing units, the renovation of housing
3 units, and the upgrade of housing units.

4 (2) The property tax savings specified in paragraph (1) *and any*
5 *interest earned on the unexpended property tax savings* may be
6 used to fund the construction of improvements or to service debt
7 incurred to fund the construction of improvements.

8 (3) (A) *Except as provided in subparagraph (B), the private*
9 *contractor shall expend the property tax savings specified in*
10 *paragraph (1) for an assessment year through the construction of*
11 *improvements or to service debt incurred to fund the construction*
12 *of improvements within the period of time the county assessor may*
13 *make an escape assessment under Section 532.*

14 (B) *The period of time described in subparagraph (A) to expend*
15 *the property tax savings shall be extended if any of the following*
16 *conditions occur:*

17 (i) *The private contractor is required, under the terms of the*
18 *contract between the private contractor and the military, to retain*
19 *the property tax savings for a specified period of time and for a*
20 *specified purpose, including, but not limited to, future housing*
21 *renovations and rehabilitations.*

22 (ii) *The military has directed the private contractor, in writing,*
23 *to retain the property tax savings in a reserve account for a*
24 *specified period of time and for a specified purpose.*

25 (C) *Any unexpended property tax savings shall be deposited in*
26 *secure accounts and invested in interest bearing instruments until*
27 *withdrawn for authorized expenditures.*

28 (D) *The period of time the county assessor may make an escape*
29 *assessment under Section 532 shall be extended by a period of*
30 *time equal to the extension authorized pursuant to subparagraph*
31 *(B).*

32 (n) The military-family housing is constructed, renovated,
33 rehabilitated, remodeled, replaced, or managed under the Military
34 Housing Privatization Initiative, or any successor to that law.

35 (o) For purposes of this section, “military facility under military
36 control” means a military base that restricts public access to the
37 military base.